

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 17-C-1740

JOAN R. PANSIER,

Defendant.

DECISION AND ORDER DENYING MOTION TO DISMISS

The United States of America commenced this action to reduce to judgment unpaid federal tax assessments made against Gary Pansier for tax years 1996 through 1998 and against Gary and Joan Pansier for tax years 2000 through 2006 and 2014. This matter comes before the Court on Ms. Pansier's motion to dismiss for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1). For the following reasons, the motion will be denied.

A motion to dismiss under Rule 12(b)(1) challenges the jurisdiction of this Court of the subject matter related in the complaint. Fed. R. Civ. P. 12(b)(1). Ms. Pansier asserts that this Court lacks subject matter jurisdiction because the United States failed to comply with 26 U.S.C. § 7401. Section 7401 provides, "No civil action for the collection of recovery of taxes, or of any fine, penalty, or forfeiture, shall be commenced unless the Secretary authorizes or sanctions the proceedings and the Attorney General or his delegate directs that the action be commenced." 26 U.S.C. § 7401. Ms. Pansier concedes that the United States alleges in its complaint that the "action is brought at the direction of the Attorney General of the United States and with the authorization and at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary

of the Treasury.” 2d Am. Compl. ¶ 2, Dkt. No. 30. But she argues that the United States cannot show that the United States Attorney General “personally” directed and the Chief Counsel of the IRS “personally” authorized the action.

The United States is not required to establish that each public official personally took these actions to satisfy the requirements of § 7401, however. The attorney representing the United States filed a declaration, signed by an IRS official, stating that the Secretary’s delegate authorized the suit. *See* Dkt. Nos. 74–75. In addition, the suit is being prosecuted by the Department of Justice, demonstrating the approval of the Attorney General’s delegate. In short, the United States has submitted documentation sufficient to satisfy the requirements of § 7401. *See United States v. Williams*, 796 F.3d 815, 817 (7th Cir. 2015). Therefore, Ms. Pansier’s motion to dismiss (Dkt. No. 65) is **DENIED**.

SO ORDERED at Green Bay, Wisconsin this 20th day of July, 2021.

s/ William C. Griesbach

William C. Griesbach
United States District Judge